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OGC Has Reviewed

2 February 1955

MEMORANDUM

TO: Chief, Finance Branch

INFORMATION: Chief, Administration and Logistics

FROM: Legal Advisor

SUBJECT: Use of Facsimile Stamp

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1. You have referred to us the question of the validity of the use of a facsimile signature when used to approve Duty Status Reports and Suballotment Advices. We perceive no reason why such a procedure is not permissable.

[redacted]

2. As used in statutes and regulations, the terms "authorized" and "approved" have come to mean the administrative acquiescence of a supervisory official in the acts of those under his jurisdiction. "Authorized" infers that this acquiescence be expressed before the fact, whereas "approved" may be after the fact. (22 Comp. Gen. Dec. 745,49, Cp.B-31948, 12-22-42) No particular form of expressing this acquiescence is generally employed. By the use of a particular form or customary conduct a written approval may be inferred. No particular form of signature is required, since it merely documents that expression of accord. Even in the case of formal contracts, no particular form of signature is required. One is free to adopt any form of signature he chooses, but of course assumes the risk of its being unauthorizedly used by others. Even though a person is able to write, he may direct another to sign a deed for him. (Espenscheid v. Espenscheid, 158 N.Y. 732, 53 N.E. 1125) A printed signature or one lithographed on an instrument by the party as though signed by him is valid. (Grieb v. Cole, 60 Mich. 597, 27 N.W. 579; Hewel v. Hogin, 3 Cal. App. 248,84 Pac. 1002).

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This general principle is applicable in the absence of any express statutory provision to the contrary. (In re. Deep River Nat'l Bank, 73 Conn., 341, 47 Atl. 675) The only statutory provision is found at 1 U.S.C.A. 1. Under this general rule of interpretation for Acts of Congress, "'signature' or 'subscription' includes a mark when the person making the same intended it as such."

3. In view of the above we are of the opinion that the practice of using a facsimile stamp to approve Duty Status Reports and Suballotment Advices is proper as a written indication of approval. Considering the volume of papers to be approved or disapproved it seems a practical solution that undoubtedly saves the Government considerable time and money and conserves talent needed for other more important functions.

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